

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT **20874**

Application 28616 of Brent M. Abel and Corinne W. Abel

7538 Oat Hills, Browns Valley, CA 95918

filed on November 8, 1985, has been approved by the State Water Resources Control Board  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:  <u>Unnamed Stream (aka Harding Creek)</u>          	Tributary to:  <u>Dry Creek thence</u>  <u>Yuba River</u>          
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2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1) South 300 feet and West 2,000 feet from NE corner of Section 6	NW¼ of NE¼	6	16N	6E	MD
2) South 2,300 feet and West 1,100 feet from NE corner of Section 6	SE¼ of NE¼	6	16N	6E	MD
3) North 1,100 feet and West 650 feet from SE corner of Section 6	SE¼ of SE¼	6	16N	6E	MD

County of Yuba

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Stockwater						
Irrigation	NE¼ of NE¼	6	16N	6E	MD	35
	SE¼ of NE¼	6	16N	6E	MD	40
	SW¼ of NE¼	6	16N	6E	MD	15
	NW¼ of NE¼	6	16N	6E	MD	20
	NE¼ of SE¼	6	16N	6E	MD	30
	SE¼ of SE¼	6	16N	6E	MD	24
	SW¼ of NW¼	5	16N	6E	MD	30
	NW¼ of NW¼	5	16N	6E	MD	5
	SW¼ of SW¼	5	16N	6E	MD	28
	NW¼ of SW¼	5	16N	6E	MD	40
					TOTAL	267

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3.5 cubic feet per second (cfs) by direct diversion to be diverted from April 15 to June 30 and October 1 to October 15 of each year and 25 acre-feet per annum by storage to be collected from January 1 to April 15 of each year. The total amount of water to be taken from the source shall not exceed 656 acre-feet per water year of October 1 to September 30. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005i)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board, Cordua Irrigation District, and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

12. For the protection of fish and wildlife, permittee shall during the period:

- a) From April 15 through June 30 and October 1 through October 15 maintain a continuous visible surface flow in the unnamed stream through the property from Point of Diversion No. 1 through Point of Diversion No. 3.
- b) From April 15 through June 30 and October 1 through October 15 bypass at the outlet of the lower-most reservoir (Reservoir No. 3) 50 percent of water available for appropriation or one cfs, whichever is less.
- c) January 1 through April 15 bypass at the outlet of the lower-most reservoir (Reservoir No. 3) one cfs of water. (0000060)

13. Permittee shall install a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)

14. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing. (0000090)

15. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife.

Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.

b. Supplemental Project water is defined as that water imported to the basin by the projects plus water released from Project storage which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The State Water Resources Control Board shall notify permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators. (0000091)

16. This permit is specifically subject to the prior rights of Yuba County Water Agency and Cordua Irrigation District.

17. Permittee shall curtail diversion of water under this permit when deficiency provisions of the Yuba County Water Agency contract with its member units are being enforced in part or in whole so that those member units are receiving less than their full contractual entitlement to water.

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

**Dated: October 7, 1996**

STATE WATER RESOURCES CONTROL BOARD

*Roger Johnson*  
for Chief, Division of Water Rights